

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2155.05
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	July 21, 2004
DATE OF REPORT:	August 17, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 21, 2004

COMPLAINT ISSUES:

Whether the Taylor Community School Corporation and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-7(d) and (e) by failing to have an individualized education program (IEP) in effect at the beginning of the 2003-2004 school year that was less than twelve months old.

511 IAC 7-27-6(a)(8) by failing to ensure the case conference committee (CCC) considered the student's need for extended school year services including a statement of such need in the student's IEP.

511 IAC 7-27-4(b) by failing to ensure that the parent understands the proceedings of the CCC meeting.

511 IAC 7-27-3 by failing to ensure the participation of the requisite individuals when convening a CCC for the student.

511 IAC 7-23-1 by failing to ensure the confidentiality of personally identifiable information by convening the CCC meeting in a public location in the presence of individuals not participating in the CCC meeting.

I.C. §20-10.1-16-8(c) by making a unilateral decision to retain the student and failing to utilize the CCC to determine whether the student would be promoted or retained.

511 IAC 7-27-7(a) by failing to implement the IEP as written.

FINDINGS OF FACT:

1. The Student is twelve years old and attends the local middle school (the School). The Student is eligible for special education and related services as a student with a learning disability.
2. The Student's IEP, dated November 19, 2002, was in effect at the beginning of the 2003-2004 school year. This IEP indicates that it was in effect until November 19, 2003. On November 17, 2003, the CCC convened and developed a new IEP for the remainder of the 2003-2004 school year that is currently in effect until November 17, 2004.

3. The Student's CCC Report, dated November 17, 2003, indicates extended school year was considered but not recommended. The Complainant signed in agreement of the recommended services on page 6 of the CCC Report.
4. The Complainant fails to specify what she does not understand regarding the CCC proceedings. The Complainant was given a copy of the Notice of Procedural Safeguards as is indicated by a checkmark on page one of the CCC Report. On page six of the CCC Report, dated November 17, 2003, the Complainant signed in agreement of the recommended services and also signed that she understood the recommendations of the CCC and had the opportunity to have those rights explained.
5. The Complainant alleges the CCC meeting convened on November 17, 2003, was, in effect, a meeting between the Student's TOR and the Complainant. The signature page of the November 17, 2003 CCC Report shows the signatures of the TOR, the general education teacher, the parent (Complainant) and the Principal. The CCC Report contains no notes indicating a discussion took place among CCC attendees.
6. The Complainant alleges the CCC meeting convened on November 17, 2003, was conducted in the school library in the presence of individuals not participating in the CCC meeting. The School failed to provide documentation that would indicate where the meeting was convened since there are also conference rooms in the school library where many CCC meetings are convened.
7. A letter, dated June 23, 2004, written by the Principal and received by the Complainant notifies the Complainant of the School's decision to retain the Student. The School acknowledges that the decision was not made by the CCC.
8. The Complainant fails to provide specifics regarding whether the Student's IEP was implemented as written.

CONCLUSIONS:

1. Finding of Fact #2 indicates the School did not fail to have an IEP in effect at the beginning of the 2003-2004 school year that was less than twelve months old. The Student's IEP, dated November 19, 2003, was in effect until November 19, 2003. Prior to that date, the CCC revised the IEP on November 17, 2003, effective until November 17, 2004. Therefore, a violation of 511 IAC 7-27-7(d) is not found.
2. Finding of Fact #3 indicates the School did ensure the CCC considered the Student's need for extended school year services. The Student's IEP, dated November 17, 2003, contains a statement regarding whether extended school year services are recommended. The IEP shows that extended school year services were considered but not recommended. The Complainant signed the IEP in agreement. Therefore, a violation of 511 IAC 7-27-6(a)(8) is not found.
3. Finding of Fact #4 indicates that the Complainant (parent) failed to specify what part of the CCC proceedings she did not understand. The Complainant received a copy of the Notice of Procedural Safeguards, as indicated by a checkmark on the first page of the CCC Report, and the Complainant signed the IEP indicating she understands the recommendations of the CCC and had an opportunity to have her rights explained. Therefore, a violation of 511 IAC 7-27-4(b) is not found.
4. Finding of Fact #5 indicates the School did not fail to ensure the participation of the requisite individuals at the CCC convened on November 17, 2003. The signature page of the IEP shows the signatures of the school Principal, as the public agency representative, the TOR, a general education teacher, and the parent. Therefore, a violation of 511 IAC 7-27-3 is not found.

5. Finding of Fact #6 indicates the School cannot provide assurance as to whether the CCC convened on November 17, 2003, was conducted in an open area or in an enclosed conference room where most case conferences are conducted. Therefore, a violation of 511 IAC 7-23-1 is found for failing to ensure the CCC meeting is not conducted in the presence of individuals not participating in the CCC meeting and thereby not ensuring the confidentiality of personally identifiable information.
6. Finding of Fact #7 indicates the School made a unilateral decision to retain the Student and failed to utilize the CCC to determine whether the Student would be promoted or retained. Therefore, a violation of I.C. §20-10.1-16-8(c) is found.
7. Finding of Fact #8 indicates the Complainant failed to specify what part of the Student's IEP was not implemented as written during the 2003-2004 school year. Therefore, a violation of 511 IAC 7-27-7(a) is not found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Taylor Community School Corporation and the Kokomo Area Special Education Cooperative shall:

1. Send a written memorandum to all relevant school personnel regarding the requirements of 511 IAC 7-23-1. A copy of the memorandum and a list of all personnel who received it shall be sent to the Division no later than August 27, 2004.
2. Convene the CCC as soon as possible to review and/or revise the Student's IEP and to make a determination on whether to promote or retain the Student for the 2004-2005 school year. A copy of the CCC Report and the IEP shall be sent to the Division no later than August 27, 2004.